



How the Canadian Military's Legal System Responds to Sexual Assault

New research by **Elaine Craig** finds remarkably low rates of conviction for sexual assault in military courts and more lenient sanctions than in civilian cases.

CONTEXT

The Canadian military has been conducting sexual assault trials for over twenty years. These trials have never been subject to academic study or external review. This review of the military's sexual assault cases is the first of its kind.

OVERVIEW

The research finds notable differences between outcomes in courts martial proceedings and in Canada's civilian criminal courts on a range of dimensions, including conviction and acquittal rates and the severity of sanction for offenders found guilty of sexual assault.

KEY FINDINGS

- The conviction rate in courts martial for the offence of sexual assault appears to be lower and the acquittal rate higher than the rates in Canada's civilian criminal courts.
- The difference between these two systems in terms of acquittal rates in sexual assault cases appears to be even larger.
- Since Operation Honour was launched in 2015 only two soldiers have been convicted of sexually assaulting a female member of the Canadian Armed Forces by Canada's military legal system.
- Plea bargains in which accused individuals can avoid *Criminal Code* convictions by pleading guilty to military-specific discipline offences like drunkenness and disgraceful conduct have been used in some cases involving aggressive sexual attacks. Sanctions for even these serious sexual attacks have included minor penalties such as fines and reprimands.
- The decisions of military judges in some cases suggest a critical failure to recognize the Canadian military's culture of hostility to women documented in the Deschamps Report.

QUESTIONS AND IMPLICATIONS

Together these findings raise the question: should the military's legal system continue to maintain jurisdiction over sexual assault cases?

AUTHOR

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FOR MORE INFORMATION

The author and CCLISAR welcome enquiries about this research.

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ABOUT CCLISAR

The Canadian Centre for Legal Innovation in Sexual Assault Response (CCLISAR) is a non-profit, non-partisan organization working to realize law's potential to respond to sexualized violence.

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